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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,133	01/28/2004	Stanislas Bourdeaut	Q79492	3585
23373 7590 04/27/2011				
SUGHRUE MION, PLLC				
2100 PENNSYLVANIA AVENUE, N.W.				
SUITE 800				
WASHINGTON, DC 20037				
EXAMINER				
BRANDT, CHRISTOPHER M				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
04/27/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
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Office Action Summary

Application No.

10/765,133

Applicant(s)

BOURDEAUT, STANISLAS

Examiner

CHRISTOPHER M. BRANDT

Art Unit

2617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In view of the Appeal Brief filed on February 8, 2011, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/George Eng/

Supervisory Patent Examiner, Art Unit 2617.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 6-11 are rejected under 35 USC 102(b) as being anticipated by **Parolari (EP 1 255 368)**.

Consider **claim 10**. Parolari discloses a mobile station comprising:

a radio link control (RLC) transmitter which receives acknowledgment/non-acknowledgement (ACK/NACK) messages transmitted by an RLC receiver, said messages comprising a start sequence number (SSN) and a received block bitmap (RRB) (page 7 lines 24-42, read as Transfer of RLC Data Blocks, where there is a sending side (the MS or the network), which transmits radio blocks within a window and the receiving side sends either Packet Uplink Ack/Nack or Packet Downlink Ack/Nack message when needed, where the message acknowledges all correctly received RLC Data Blocks up to an indicated block sequence number (BSN) (i.e. start sequence number) and a bitmap that starts at the same RLC Data Block is used); and

means for, in a transfer mode corresponding to Enhanced General Packet Radio Service (EGPRS), taking into account SSN and RRB information transmitted in a non-acknowledged mode (page 7 lines 43-53, read as the transfer of RLC Data Blocks in the unacknowledged RLC mode is controlled by the numbering of the RLC Data Blocks participating one Temporary Block Flow, where the same mechanism and message format for sending temporary acknowledgement messages is used as for acknowledged mode in order to convey the necessary control signaling (i.e. taking into account SSN and RRB information)).

Consider **claim 11 (and similarly applied to claim 1)**. Parolari discloses a mobile communication network equipment comprising:

a radio link control (RLC) transmitter which receives acknowledgment/non-acknowledgement (ACK/NACK) messages transmitted by an RLC receiver, said messages comprising a start sequence number (SSN) and a received block bitmap (RRB) (page 7 lines 24-42, read as Transfer of RLC Data Blocks, where there is a sending side (the MS or the network), which transmits radio blocks within a window and the receiving side sends either Packet Uplink Ack/Nack or Packet Downlink Ack/Nack message when needed, where the message acknowledges all correctly received RLC Data Blocks up to an indicated block sequence number (BSN) (i.e. start sequence number) and a bitmap that starts at the same RLC Data Block is used); and

means for, in a transfer mode corresponding to Enhanced General Packet Radio Service (EGPRS), taking into account SSN and RRB information transmitted in a non-acknowledged mode (page 7 lines 43-53, read as the transfer of RLC Data Blocks in the unacknowledged RLC mode is controlled by the numbering of the RLC Data Blocks participating one Temporary Block Flow, where the same mechanism and message format for sending temporary acknowledgement messages is used as for acknowledged mode in order to convey the necessary control signaling (i.e. taking into account SSN and RRB information)).

Consider **claims 6-8 and as applied to claim 1**. Parolari discloses a mobile station, mobile radio system equipment, and a mobile radio system including means for implementing a method according to claim 1 (page 7 line 26, read as mobile station and network).

Consider **claim 9 and as applied to claim 1**. Parolari discloses wherein the non-acknowledged mode is General Packet Radio Service (GPRS) mode or Temporary Block Flow (TBF) Mode (page 7 lines 43-53, Temporary Block Flow).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4 and 5 are rejected under 35 USC 103(a) as being unpatentable over **Parolari (EP 1 255 368)** in view of **Leitch et al. (US Patent 5,546,411)**.

Consider **claim 4 and as applied to claim 1**. Parolari discloses the claimed invention but fails to explicitly teach a method wherein said acknowledgment information is taken into account by an RLC sender to estimate transmission quality.

However, Leitch teaches a method wherein said acknowledgment information is taken into account by an RLC sender to estimate transmission quality (column 1 lines 55-61, read as the acknowledgement signal comprises a signal quality estimate).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Leitch into the invention of Parolari in order to achieve maximum throughput efficiency and economy of system design.

Consider **claim 5 and as applied to claim 4**. Parolari and Leitch disclose wherein said transmission quality estimate is used for radio link adaptation (Leitch; column 1 lines 47-50, read as adaptively selecting a communication strategy).

Conclusion

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Brandt whose telephone number is (571) 270-1098. The examiner can normally be reached on 7:30a.m. to 5p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Christopher M Brandt/

Examiner, Art Unit 2617

April 20, 2011

/George Eng/

Supervisory Patent Examiner, Art Unit 2617